

**WARRANT FOR THE 2021 TOWN OF HARVARD
ANNUAL TOWN MEETING SECOND SESSION
COMMONWEALTH OF MASSACHUSETTS**

Worcester, ss.

To the Constable of the Town of Harvard

Greetings:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of the said Town, who are qualified to vote in Town Affairs, to meet on the field in front of the Library and Bromfield School, located on Massachusetts Avenue, on Saturday the 16th day of October, 2021 at 12:00 noon by the clock to act on the following articles at the second session of the 2021 Annual Town Meeting which was adjourned to said date and time at the conclusion of the first session of the 2021 Annual Town Meeting on May 15, 2021.

ARTICLE 1: Purchase Senior Service Building – Council On Aging

To see if the Town will vote to: a.) authorize the Select Board to acquire by purchase, gift, eminent domain or otherwise the condominium unit located at 16 Lancaster County Road, Unit No. 2, Lancaster County Place Condominiums, Harvard, Massachusetts and described in the unit deed recorded with the Worcester District Registry of Deeds in Book 42146, Page 151 for the purpose of providing a single-level easily accessible Senior Center; and b.) appropriate a sum of money to be expended by the Select Board for the acquisition, design, construction, reconstruction, and renovation of a building at said property for said purpose; and c.) provide for said appropriation by authorizing the Town Treasurer, with the approval of the Select Board, to borrow a sum of money pursuant to Massachusetts General Laws Chapter 44, provided, however, that this appropriation and debt authorization shall be contingent upon passage of a Proposition 2½ debt exclusion referendum ballot question under Massachusetts General Laws Chapter 59, § 21C(k), or pass any vote or votes in relation thereto.

(Inserted by the Select Board)

ARTICLE 2: Purchase New Fire Truck – Fire Department

To see if the Town will vote to: a.) authorize the Fire Chief, with the approval of the Select Board, to acquire by purchase a fire truck for the purpose of replacing the 42- year old aerial truck with an aerial pumper combination vehicle; and b.) appropriate a sum of money to be expended by the Select Board for the acquisition of such a vehicle for said purpose; and c.) provide for said appropriation by authorizing the Town Treasurer, with the approval of the Select Board, to borrow a sum of money pursuant to Massachusetts General Laws Chapter 44, provided, however, that this appropriation and debt authorization shall be contingent upon passage of a Proposition 2½ debt exclusion referendum ballot question under Massachusetts General Laws Chapter 59, § 21C(k), or pass any vote or votes in relation thereto.

(Inserted by the Select Board)

ARTICLE 3: AMEND CHAPTER 125, THE PROTECTIVE BYLAW

To see if the Town will vote to amend Chapter 125, the Protective Bylaw, by deleting section 125-18.2, Affordable accessory apartment, in its entirety, or pass any vote or votes in relation thereto.

(Inserted by Planning Board)

ARTICLE 4: AMEND CHAPTER 125-21, PERMITTED USES IN AR DISTRICTS, OF THE PROTECTIVE BYLAW

To see if the Town will vote to amend Chapter 125-21, Permitted Uses in AR Districts, of the Protective Bylaw, by making the following revisions thereto, or pass any vote or votes in relation thereto.

[Key to revisions; underlining = additions; ~~strikethrough~~ = deletions]

§ 125-21 B(1) Permitted uses in AR Districts - Uses by special permit

B. Uses by special permit (see § 125-46, Special permits) authorized by the Board of Appeals as follows:

(1) As provided in § 125-18.1(A)(1)(a), ~~In-law apartment~~ Accessory Dwelling Unit (ADU) use.

(Inserted by Planning Board)

ARTICLE 5: AMEND CHAPTER 125-57, SENIOR RESIDENTIAL DEVELOPMENT, OF THE PROTECTIVE BYLAW

To see if the Town will vote to amend Chapter 125-57, Senior Residential Development, of the Protective Bylaw, by making the following revisions thereto, or pass any vote or votes in relation thereto.

[Key to revisions; underlining = additions; ~~strikethrough~~ = deletions]

§125-57 Senior Residential Development

A. Purpose and Intent.

- (1) To address the town’s demonstrated need for a variety of housing types, settings, and residential services to meet the needs of people as they age.
- (2) To permit the development of appropriately located, specially designed, and appropriately priced housing for seniors who would otherwise not have such housing opportunities within the town.
- (3) To provide opportunities for Harvard residents to age in place.
- (4) To allow flexibility in land use planning in order to improve site layouts, protect natural features and environmental values, and use land in harmony with neighboring properties;

- (5) To encourage the implementation of "Smart Growth" and sustainable development techniques to reduce land consumption and sprawl, provide for open space preservation, expand housing options, and encourage re-use of existing structures;
- (6) To reduce the typical costs of providing municipal services to residential developments;
- (7) To protect Harvard's rural New England character by permitting the development of residential housing in clusters and village-like settings, in a manner which is in harmony with Harvard's historic development pattern, preserves and protects its natural resources, and is pedestrian friendly.

B. Applicability.

- (1) The Planning Board may approve a site plan or grant a Special Permit for a Senior Residential Development project in accordance with this Section 125-57 based on the requirements of the applicable section below.
- (2) A Senior Residential Development is one that anticipates and is marketed to people age 55 or over or age 62 and older strictly following the U.S. Department of Housing and Urban Development (HUD) requirements (See CFR Title 24, Subpart E, 43 U.S.C. § 3601 *et seq.*, and Massachusetts General Laws Chapter 151B). Specific age-restriction criteria are provided in Section C(2) below.
- (3) Senior Residential Developments are restricted to the criteria and zoning district(s) specified in Section G. below.
- (4) The provisions of this Section are exempt for Accessory Dwelling Units (ADUs), except for Age-Appropriate Design provided in Section E. below.
- (5) Local preference. Age-restricted dwelling units within the development shall be available to all persons meeting the age restriction. However, a plan shall be prepared by the petitioner which shall, to the extent allowable by law, give a preference for age-restricted dwelling units within a development first to Harvard residents, then to immediate family members of Harvard residents and then to the general public.

C. General Compliance.

- (1) A Senior Residential Development proposal must comply with all other applicable Town Bylaws, and the applicable rules, regulations, and requirements of all departments, boards, and commissions, including the special requirements of the Historic District and the Groundwater Protection Overlay District. For development proposed as part of this Bylaw, the provisions of Chapter 125, shall apply in full, except where inconsistent with this section. In the latter case, the provisions of this section shall supersede any such inconsistent provisions.
- (2) Age Restriction - A Senior Residential Development may impose an older persons age restriction set forth in a deed, deed rider, restrictive covenant, or other document that shall

be recorded at the Registry of Deeds or registered in the Land Court. The age restriction threshold shall meet the requirements of the Housing for Older Persons Act of 1995 (HOPA).

D. Basic Development Requirements.

- (1) Maximum Number of Senior Housing Dwelling Units in Harvard – The maximum number of housing units within all permitted senior residential developments in the Town of Harvard shall be limited to a number equivalent to 15% of the existing total residential housing units located in the Town of Harvard. For the purpose of this section, the number of residential housing units shall be as established by the Board of Assessors as of January 1 of the calendar year. The Planning Board may waive this limitation if the Board finds that the proposed development fulfills a critical senior housing need for the Town of Harvard or the surrounding region.
- (2) Pace of Development – A maximum of 100 units may be approved by special permit on an annual basis but no more than 30 units may be permitted in any one year. The only new Senior Residential Development units permitted over this cap period shall be accessory dwelling units.
- (3) For any Senior Residential Development over 20 units, the applicant shall be required to pay for an independent fiscal impact analysis, to be contracted by the Planning Board, which shall demonstrate likely revenues generated by the development and the estimated costs of providing municipal services. The Select Board may negotiate and enter into an agreement with the developer or owner of such a facility or development which provides for, among other things, payments to the Town to offset the Town's costs of providing services to the development and/or for the provision of services to the development by service providers other than the Town at the developer's expense.

E. Age-Appropriate Design.

A Senior Residential Development shall be designed to provide housing options in a setting that encourages and supports aging in community. Units for seniors shall be “visitable” and designed for people as they age. At minimum, these terms mean that a Senior Residential Development shall have the following features:

- (1) At least one (1) zero-step entrance,
- (2) Doorways with a 36-inch clear passage space,
- (3) Master bedroom and an accessible en-suite bathroom located on the same floor as the kitchen, living room, and dining room, all being on the same floor as the zero-step entrance,
- (4) Master bedroom and en-suite bathroom designed and equipped for seniors and people mobility impairments, and

- (5) For developments with three or more units, the following provisions ~~must~~ shall apply:
- (a) Covered, indoor or structured parking shall be provided, as applicable.
 - (b) Compliance with the applicable accessibility requirements of the Massachusetts Architectural Access Board.
 - (c) Outdoor facilities, such as walkways, gardens, and recreation areas, shall be designed for universal access as provided in the Federal Fair Housing Act and the Americans with Disabilities Act, as amended. Walkways between buildings for campus or village style developments may be required as applicable.
- (6) The Planning Board may modify a specific Age-Appropriate Design element to meet the specific needs of a particular development.

F. Development Standards.

As part of the Planning Board's site plan and special permit review process, the Board shall evaluate the proposed Senior Residential Development for conformance with design standards as they may be applicable.

Development design shall conform to the requirements of the applicable section of the Harvard Protective Bylaw for the type of development described in Section G. below.

G. Senior Residential Development Types.

This bylaw provides for ~~two (2)~~ three (3) Senior Residential Development types as follows. General provisions covering all developments shall be provided in Sections D through F above. Applicants should also refer to Chapter 125, Sections 38, 39 and 46, as they may be applicable to the application as well.

- (1) **Accessory dwelling units (ADUs).** Accessory Dwelling Units shall be permitted as per §125-18.1.
- (2) **Assisted living facility.** Communities that offer a multi-faceted residential setting that provides personal care services, 24-hour supervision and assistance, and activities and health-related services for seniors, located within the C district with an ARV-SP special permit. Requirements for Assisted Living Facility developments are provided in Section H below.
- (3) **Continuing Care Retirement Community.** A Continuing Care Retirement Community (CCRC) Village Special Permit shall allow the development of a CCRC in the C district as per the requirements of I. below.

H. Assisted living facility.

An assisted living facility may be permitted in the Commercial District as a stand-alone use or as part of a mixed-used development or Continuing Care Retirement Community (CCRC), by Special

Permit. The lot on which an assisted living facility is located shall have a minimum land area of 1.5 acres and at least 3,500 square feet of land area for each assisted living unit, inclusive of the 1.5 acres minimum land area, within the Commercial District and shall comply with all dimensional requirements for lots set forth in § 125-29. The maximum building size shall be 55,000 square feet of gross floor area. The following additional standards shall apply:

- (1) At least 50% of the development shall be open space, of which not more than half shall be wetland. The open space calculation may include land within required setbacks.
- (2) Unless otherwise modified by the Planning Board, no building in a CCRC shall be located closer than 100 feet to an AR District boundary, and no parking area or accessory structure shall be located closer than 60 feet to an AR District boundary.
- (3) Permitted accessory structures include maintenance buildings, and other customary accessory structures for use of the residents and staff.

I. Continuing Care Retirement Community village special permit.

(1) Purpose

This Continuing Care Retirement Community Village Special Permit is established by the Town of Harvard in order to achieve the following purposes:

- (a) The provisions of a variety of housing choices for elderly persons by allowing for the development of a Continuing Care Retirement Community (CCRC) scaled to the needs of seniors and compatible in scale with the character of the town.
- (b) The provisions of professional services and amenities routinely used and desired by senior persons.
- (c) The design of site plans and structures adapted to the needs of the senior population.

(2) Applicability

A Continuing Care Retirement Community (CCRC), as defined herein, may be allowed upon a grant of a Special Permit by the Planning Board upon any parcel of land:

- (a) Situated within a Commercial (C) zoning district as shown on the Zoning Map, and
- (b) Located on a road classified as a principal or minor arterial.

(3) Types of Dwellings, Uses, and Associated Services Permitted

- (a) A CCRC may contain any or all of the following housing types, attached or detached, in any combination:

[1] Independent Living:

- [a] Detached single-family cottage;
 - [b] Two-family or townhouse;
 - [c] Multi-family;
- [2] Congregate Care: a structure or space within a larger facility which provides a range of housing and support services. The structure may contain, but is not limited to the following uses:
- [a] Dwelling units with kitchen facilities;
 - [b] Bedrooms with a bathroom and sitting area or without kitchen facilities;
 - [c] Common, social, and recreational areas such as dining rooms, libraries, and indoor and outdoor recreation facilities and gardening areas;
- [3] Assisted or Catered Living: buildings or structures other than a hospital or nursing home/institution designed to accommodate assistance with one or more activities of daily living, such as dressing, eating, bathing, walking or toileting;
- [4] Nursing Care: a facility which must be licensed by the Massachusetts Department of Public Health;
- [5] Living quarters for support staff.
- (b) A CCRC may contain one or more of the following uses and Associated Services incorporated in [1] through [15] inclusively herein so long as these services and activities are ancillary and in support of a CCRC. These services and activities may be offered within congregate buildings of the CCRC or as separate structures.
- [1] Dining rooms, coffee shops, and related kitchen areas and facilities;
 - [2] Living rooms, libraries, music rooms, auditoriums, greenhouses;
 - [3] Lounges, card rooms, meeting rooms, and other social and recreational areas;
 - [4] Administrative offices, social service offices, educational uses;
 - [5] Mail rooms,
 - [6] Gift shops, convenience stores, and other retail, not to exceed 7,500 s.f. combined;
 - [7] Medical offices, diagnostic and treatment centers, wellness centers, exercise areas, home health care centers;
 - [8] Professional offices;
 - [9] Barbers, hairdressers, beauty salons, and other personal services, not to exceed 3,000 s.f. combined;
 - [10] Banks and ATM banking machines;
 - [11] Home health care;
 - [12] Adult day health and child care services;
 - [13] Cleaning services;
 - [14] Community center;
 - [15] Indoor or outdoor recreation facilities;
 - [16] Conservation or agricultural uses;

[17] Other uses, as approved by the Planning Board.

(4) Affordability

To assist the Town in creating units eligible for the Chapter 40B Subsidized Housing Inventory through means other than a Comprehensive Permit and to prevent the Town from falling behind in meeting the requirements for Affordable Housing as detailed in Massachusetts General Law Chapter 40B, CCRC projects with greater than ten (10) dwelling units must provide Affordable Housing Units to serve low- or moderate-income households, as follows:

- (a) Percentage of Affordable Units: At least 20% of ownership units must be Affordable Housing Units. At least 20% of rental units must be Affordable Housing Units
- (b) Living quarters for support staff, if any, are excluded from the Affordable Housing provision.
- (c) Definitions, provisions, and procedures for Affordable Units are governed by the provisions of Section 3.
- (d) Projects with less than ten (10) units but with five (5) or more shall provide a payment in lieu of the provision of a unit equivalent to the assessed value of a one (1) bedroom unit. For example, for an ownership project with eight (8) units, fifteen percent affordability would require 1.2 affordable units. Assuming that the assessed value of such a unit is \$350,000, the developer would submit a payment to the Harvard Municipal Housing Trust of \$420,000.

(5) Design Criteria

- (a) Buildings shall be in accordance with an overall master site plan and shall be designed as a single architectural scheme and conform with the provisions of the Commercial Design Guidelines. The Design Review Board shall be consulted on the design prior to an application to the Planning Board;
- (b) Structure and site designs which blend the scale of residential units and non-residential uses such as professional office or administrative space, resident services, and other non-residential permitted uses;
- (c) Minimization of traffic impacts and safe design of all ways, vehicular and pedestrian. No individual building within the CCRC may take access directly from any existing public road or street. Project ingress/egress shall be through no more than two (2) access-controlled entrances, provided, however, that for either public safety or findings of traffic analysis, additional ingress/egress point(s) would be preferable;
- (d) Maximization of preservation of natural features and the protection of wetlands, scenic vistas and open spaces;

- (e) Structure and site designs which meet the specific needs of the elderly;
 - (f) No unit may exceed two (2) bedrooms except that age-restricted independent living units may have up to 25% as three (3) bedrooms;
 - (g) Site plan design which visually emphasizes building design and landscaped areas and minimizes the visual impact of parking areas and elements such as refuse collection stations;
 - (h) Site plan design which creates open space by using cluster principles. At least 40% of the site shall be preserved as open space and maintained as natural vegetation or landscaped areas. Use of open space, except for natural lands, active and passive recreation, landscape plantings, footpaths, and agriculture shall be prohibited. Easements may be granted for the installation of underground utilities, provided all disturbed areas be restored to a natural state after construction. A restriction, enforceable by the Town of Harvard, shall be recorded to ensure that such land shall be kept in an open, natural or landscaped state and not built upon for residential use or developed for accessory use such as parking or roadways. A landscape management plan shall be developed with restrictions to provide for maintenance of the open areas in a manner which will ensure its suitability for its function, appearance, cleanliness, and for proper maintenance of drainage, utilities and the like.
 - (i) Site and structure design shall provide suitable means of access and egress to dwellings for handicapped persons. Enclosed or covered walkways connecting all buildings shall be permitted.
 - (j) Structures shall be located on the site so as to provide for the privacy of residents adjacent to the CCRC.
- (6) Site and Dimensional Requirements

Table 1 – Site and Dimensional Criteria

<u>Criteria</u>	<u>Minimum/Base</u>	<u>Maximum</u>
<u>Project Size</u>	<u>Five (5) Acres</u>	<u>Twelve (12) acres</u>
<u>Project Open Space Useable Open Space (% of total OS)</u>	<u>40% for projects of 5-8 acres and 50% for projects 8 or more acres.</u>	
<u>Density (base/max)</u>	<u>10.0 units/acre gross</u>	
<u>Maximum Number of Units</u>	<u>50</u>	<u>120</u>

<u>Criteria</u>	<u>Minimum/Base</u>	<u>Maximum</u>
<u>Unit Size/Bedrooms/Mix</u> <ul style="list-style-type: none"> ▪ <u>Independent Living</u> ▪ <u>Congregate Living</u> ▪ <u>Assisted Living Units</u> ▪ <u>Skilled Nursing Units</u> ▪ <u>Hospice Care</u> 	<u>35% of units</u> <u>None</u> <u>None</u> <u>None</u> <u>None</u>	<u>65%of units</u> <u>30% of units</u> <u>30% of units</u> <u>15% of units</u> <u>10% of units</u>
<u>Setbacks and Siting</u>		
<u>Cottages</u>	<p><u>Cottages may have exclusive use areas and shall be set back 15' from edge of pavement or sidewalk, 5' from side area boundary, 10' to other cottages, and 15' to rear area boundary.</u></p> <p><u>Cottages shall be clustered in a village or hamlet configuration and this cluster shall be located no closer than 50' to any other type of building in the development, 50' from the project boundary, and 100' to any external non-residential use.</u></p>	
<u>Non-Residential Buildings</u>	<p><u>Buildings exclusively used for ancillary, administrative, maintenance or other non-residential uses shall be set back at least 100' from AR zoned land, 50' from C zoned land, 50' from any residential cottage, and 25' from any other type of residential or congregate building in the development.</u></p>	
<u>Independent Living Buildings, Townhouses, Congregate Buildings, and Parking Facilities</u>	<p><u>Multifamily independent living buildings, townhouse blocks, and congregate buildings housing a range of residential and non-residential uses shall be set back at least 150' from AR zones land, 50' from C zoned land, 100' from any residential cottage, and 25' from any other building in the development.</u></p>	
<u>Buffers</u>	<p><u>A 25' natural vegetative buffer, at minimum, shall be installed and maintained adjacent to any AR zoned land. Additional or alternative buffering and screening may be required based on the conditions of the adjacent lands.</u></p>	

<u>Criteria</u>	<u>Minimum/Base</u>	<u>Maximum</u>
Zoning Districts Permitted	Commercial (C)	

(7) Other Dimensional Requirements:

- (a) Maximum number of units allowed provided in Table 1 above. Actual maximum permitted density will be determined by the provision of water and wastewater services in compliance with 310 CMR 15.000: Septic Systems ("Title 5").
- (b) The number of habitable buildings on a lot and the maximum number of dwelling units permitted per habitable building shall be determined by the Planning Board on a case-by-case basis.
- (c) Non-residential uses: the total area devoted to non-residential uses located in the buildings may not exceed twenty-five percent (25%) of the total area of the living areas.
- (d) The open space requirement is substituted for the more conventional rear and side yard requirements in order to provide flexibility in the protection of natural features; to maintain significant open space areas for the enjoyment of the residents; and to promote a variety of site plans tailored to the needs of the elderly.
- (e) All structures must conform to the Massachusetts Building Code with respect to building separation and firewalls.
- (f) Location and design of all structures shall be reviewed by the Town of Harvard Fire Chief with regard to accessibility of fire and other emergency vehicles.
- (g) Waste disposal containers shall be located in rear yards and screened with fencing and/or natural vegetative materials

(8) Roadway, Parking, and Circulation Requirements

- (a) The following minimum parking standards shall apply to CCRC facilities approved under this section of the by-law. The Planning Board may waive the construction of parking until it is demonstrated that it is actually needed. Parking areas shall be designated as either to be constructed at the time of building construction or at a future date when it is demonstrated that it is needed. Where there is a mix of uses, the total parking area for the CCRC must equal or exceed the sum of the minimum requirements required by the following:
 - [1] There shall be provided a minimum of one and one-half (1.5) parking spaces for independent and congregate living units except as follows:
 - [a] Assisted living facilities: One (1) parking space for every five (5) beds and one (1) parking space for each employee on the largest shift.

[b] Nursing Care facility: One (1) parking space for every twenty (20) beds and one (1) parking space for every employee on the largest shift.

[2] The Planning Board shall have the discretion to waive the applicant's compliance with these parking requirements, provided that the applicant's plans demonstrate the capacity to fully comply with all other requirements of this Section.

[3] Roads and utilities shall be designed and constructed in conformance with the Town of Harvard Site Plan review standards. The Planning Board may modify said standards if it determines that such action will more acceptably meet the purposes of this section.

(b) A CCRC shall provide internal pedestrian circulation with sidewalks or multi-purpose paths meeting or exceeding Americans with Disabilities Act minimum requirements. Such pedestrian facilities shall serve as an internal site circulation system for residents, visitors, and staff connecting all building entrances to the system. It shall also externally connect to any municipal pedestrian network.

(8) Sewerage Disposal

No special permit for a CCRC may be granted unless the proposed developer has designed a plan in compliance with Title and its successors and standard Board of Health regulations for the number of bedrooms being served by the system or connected to a municipal sewer system.

(9) Signs

Signs will be regulated by §125-41 of the Protective Bylaw.

(10) Other Provisions

(a) Restrictive Covenants – A Declaration of Restrictive Covenants must be approved by the Town and recorded at the Worcester County Registry of Deeds. Said Declaration shall provide all of the restrictions necessary to assure that a proposed development will operate as depicted on the Site Plan and be in compliance with the Federal Fair Housing Act amendments of 1988, as it may also be subsequently amended, and the provisions of MGL Chapter 93, §76 and all other federal, state, and local laws and regulations related to senior housing, housing, and other applicable provisions.

(b) Executive Office of Elder Affairs Submittal

(11) Procedure

(a) Pre-Application Review: The applicant shall submit a pre-application packet to the Planning Board consisting of a sketch plan and narrative, in sufficient detail for the Board and other review participants to develop feedback to the applicant, so that a formal application can be complete and has a greater likelihood of success. The deliverable resulting from this review will be a letter or memorandum listing all of the

comments and recommendations from the reviewing parties. At the applicants' request, the pre-app review committee can meet with the applicant to discuss the findings in the letter.

- (b) Preliminary Plan: The applicant shall submit a preliminary site plan package to the Planning Board for its review and recommendations which shall contain the following:
- [1] Preliminary site plan developed by a registered civil engineer or landscape architect.
 - [2] Project narrative that includes how applicant meets all of the provisions of this Section and §§125-38, 39, and 46 of this Bylaw.

The applicant shall be required to meet with the Planning Board to discuss the package including the provisions of this Section and other referenced sections; the elements of the proposed development; and the requirements and specific provisions of the preliminary site plan.

- (c) Design Review Board: Once a Preliminary Plan approval has been secured, the applicant must submit a project design program to the Design Review Board based on the procedures in §133-57 of the Town of Harvard Bylaws and incorporate the Commercial Design Guidelines (October 2016) adopted by the Planning Board. As this project type requires a Special Permit, the Commercial Design Guidelines shall be mandatory.
- (d) Full Site Plan and Special Permit: The applicant will be required to submit a full special permit and site plan application packet in accordance with the applicable provisions of §125-38 and -39 and §125-46. The Planning Board may issue a special permit if it determines that all of the applicable requirements for the CCRC have been met and the full site plan is generally consistent with the preliminary site plan.

(Inserted by Planning Board)

ARTICLE 6: AMEND CHAPTER 125-52, AYER ROAD VILLAGE SPECIAL PERMIT, OF THE PROTECTIVE BYLAW

To see if the Town will vote to amend Chapter 125-52, Ayer Road Village Special Permit, of the Protective Bylaw, by deleting Section 125-52 I, Assisted living facility, or pass any vote or votes in relation thereto.

[Key to revisions; underlining = additions; ~~strikethrough~~ = deletions]

§ 125-52 I Ayer Road Village Special Permit (ARV-SP) - Assisted living facility.

- I. — ~~Assisted living facility. An assisted living facility may be permitted in an ARV SP as a stand-alone use or as part of a mixed-used development. The lot on which an assisted living facility is located shall have a minimum land area of 1.5 acres and at least 3,500 square feet of land area for each assisted living unit, inclusive of the 1.5 acres minimum land area, within the Commercial District and shall comply with all dimensional requirements for lots set forth in § 125-29. The maximum building size shall be 55,000 square feet of gross floor area. The following additional standards shall apply: [Added 4-5-2016 ATM by Art. 52]~~

- ~~(1) At least 50% of the development shall be open space, of which not more than half shall be wetland. The open space calculation may include land within required setbacks.~~
- ~~(2) Unless otherwise modified by the Planning Board per § 125-52G(1)(c), no building shall be located closer than 100 feet to an AR District boundary, and no parking area or accessory structure shall be located closer than 60 feet to an AR District boundary.~~
- ~~(3) Permitted accessory structures include maintenance buildings, and other customary accessory structures for use of the residents and staff.~~
- ~~(4) The proponent shall be required to pay for an independent fiscal impact analysis, to be contracted by the Planning Board, which shall demonstrate likely revenues generated by the development and the estimated costs of providing municipal services. The Select Board may negotiate and enter into an agreement with the developer or owner of an assisted living facility which provides for, among other things, for payments to the Town to offset the Town's costs of providing services to the development and/or for the provision of services to the development by service providers other than the Town at the developer's expense. **[Amended 10-22-2018 STM by Art. 2]**~~

(Inserted by Planning Board)

ARTICLE 7: AMEND CHAPTER 125-2, DEFINITIONS, OF THE PROTECTIVE BYLAW

To see if the Town will vote to amend Chapter 125-2, Definitions, of the Protective Bylaw, by adding or amending the following definitions, or pass any vote or votes in relation thereto.

[Key to revisions; underlining = additions; ~~strikethrough~~ = deletions]

§ 125-2 Definitions.

ASSISTED LIVING FACILITY

Any entity, however organized, whether conducted for profit or not for profit, which is certified by the Massachusetts Executive Office of Elder Affairs and which meets all of the following criteria: **[Added 4-5-2016 ATM by Art. 52]**

- A. Provides room and board; and
- B. Provides, directly by employees of the entity or through arrangement with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provider; and
- C. Collects payments or third-party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same.

ASSOCIATED SERVICES:

A program of resident services primarily for the benefit of the residents of the CCRC.

CONGREGATE CARE

Congregate care refers to residential living for seniors in a congregated setting. Residents of congregate care facilities have private apartments but share a common dining room, kitchen facilities, and other amenities. The purpose of congregate care is to allow seniors to continue living an independent life although assisted with such tasks like cooking. Unlike other housing arrangements for seniors, this senior living option does not offer around the clock care.

CONTINUING CARE RETIREMENT COMMUNITY (CCRC):

A development comprised of a dwelling or dwellings with residential services operated or sponsored as a coordinated unit by a corporation or organization, having among its principal purposes the provision of housing and associated services for persons 55 years or older.

HOME HEALTH CARE

Medical and therapeutic services provided to residents in their dwelling units.

HOSPICE CARE

Facilities or services designed to provide for the physical and emotional needs of the terminally ill.

INDEPENDENT LIVING UNITS

Residential units and associated facilities designed for seniors who are self-sufficient and require no on-site personal or health care services. An Independent Living Housing unit consists of a room or group of rooms designed or intended to provide a habitable unit for one or more persons with provisions for cooking, living, sanitation and sleeping for the exclusive use of the household unit. Associated facilities may include substantial common and socializing areas and other amenities.

SENIOR (PERSON):

A Senior is any person having reached the age of 55 years.

SENIOR HOUSEHOLD:

Any household having at least one person 55 years or older. [Added 3-31-1990 ATM by Art. 18; amended 12-3-2002 STM by Art. 19]

SKILLED NURSING CARE FACILITY

A facility for the care of senior persons requiring regular attention by medical or nursing personnel for reasons of age, ill health, or physical incapacity and which has been licensed as a long-term care facility by the Massachusetts Department of Public Health.

(Inserted by Planning Board)

ARTICLE 8: AMEND PROTECTIVE BYLAW CHAPTER 125

To see if the Town will vote to amend Chapter 125 of the Code of the Town of Harvard, Protective Bylaw, by adding thereto a new Section 125-58, entitled Erosion Control as follows, or pass any vote or votes in relation thereto:

§125-58
EROSION CONTROL

- A. Purpose.** The purpose of this Bylaw is to protect, maintain and enhance the public health, safety, environment, and general welfare of the Town by establishing minimum requirements and procedures to control the adverse effects of soil erosion and sedimentation, construction site runoff, increased post-development stormwater runoff, decreased groundwater recharge and nonpoint source pollution associated with new development, redevelopment and other land-disturbance. It has been determined that proper management of erosion and stormwater will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, protect water and aquatic resources, protect and enhance wildlife habitat, and promote groundwater recharge to protect surface and groundwater drinking supplies. This Bylaw seeks to meet that purpose through the following objectives:
- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the Bare Hill Pond, Assabet River, and Nashua River watersheds and preserve the health of water resources.
 - (2) Require that new development, redevelopment, and other land-disturbance activities maintain the after-development runoff characteristics as equal to or less than the pre-development runoff characteristics, where appropriate, in order to reduce flooding, stream bank erosion, siltation, nonpoint source pollution, property damage, and to maintain the integrity of stream channels and aquatic habitats.
 - (3) Establish provisions that require practices that reduces soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land-disturbance activities.
 - (4) Establish provisions to ensure that soil erosion and sedimentation control measures, stormwater and nonpoint source pollution runoff control practices are incorporated into the site planning and design process and are implemented and maintained.
 - (5) Establish administrative procedures for the submission, review, approval or disapproval of erosion and sediment controls, Best Management Practices (BMP's) and for the inspection of approved active projects, and long-term follow up; Establish administrative procedures and fees for the submission, review, approval, or disapproval of erosion control plans, inspection of construction sites, and the inspection of approved projects.
 - (6) Establish the Town of Harvard's legal authority and capacity to ensure compliance with the provisions of this Bylaw through funding, permitting, inspection, monitoring, and enforcement.
- B.** Nothing in this Bylaw is intended to supersede or conflict with the requirements of the Town of Harvard Protective Bylaw, the Mass Wetlands Protection Act, the Town of Harvard Wetlands Protection Bylaw, Town of Harvard General Bylaws, any other Bylaws that may be adopted by the Town of Harvard, or any Rules and Regulations adopted thereunder. In case of such a conflict, the provisions of such bylaws or rules and regulations, shall govern.

C. Exemptions. Exemptions from this Bylaw apply to the following activities, provided that a project is solely comprised of any one of these activities:

- (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04 (“Agricultural”) and the conversion of additional land to agricultural use, when undertaken in such a manner as to prevent erosion and siltation through the use of Best Management Practices (BMP) recommended by the U.S. Department of Agriculture Natural Resources Conservation Service or the Massachusetts Department of Agricultural Resources.
- (2) Any work or projects for which all necessary approvals and permits were issued before the effective date of this Bylaw.
- (3) Normal maintenance of existing landscaping, gardens, or lawn areas.
- (4) Construction of any fence that will not alter existing terrain or drainage patterns.
- (5) Construction of utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) other than drainage which will not alter terrain, ground cover, or drainage patterns, so long as BMPs are used to prevent erosion, sedimentation and release of pollutants.
- (6) Emergency repairs to any existing utilities (gas, water, sanitary sewer, electric, telephone, cable television, etc.) and emergency repairs to any stormwater management facility that poses a threat to public health or safety. Where such activity is subject to the jurisdiction of the Conservation Commission, the work shall not proceed without the issuance of an Emergency Certification by the Commission.
- (7) The maintenance or resurfacing (not including reconstruction) of any public or private way.

D. Definitions.

BEST MANAGEMENT PRACTICES (BMPs) - Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce point source and nonpoint source pollution, and promote protection of the environment. “Structural” BMPs are devices that are engineered and constructed to provide temporary storage and treatment of stormwater runoff. “Nonstructural” BMPs use natural measures to reduce pollution levels, and/or promote pollutant reduction by eliminating or capturing the pollutant source.

DISTURBANCE OF LAND (Land-Disturbance) - Any action causing the removal of vegetation including tree and brush clearing; importation, removal or redistribution of soil, sand, rock, gravel or similar earth material.

EROSION - The process in which the ground surface is disturbed or worn by either natural forces such as wind, water, ice, gravity, or by mechanical means.

EXISTING LAWN - Grass area which has been maintained and mowed in the previous two years.

FILLING - The act of transporting or placing (by any manner or mechanism) material from, to, or on any soil surface or natural vegetation.

NORMAL MAINTENANCE - Activities that are regularly scheduled to maintain the health

and condition of a landscaped area. Examples include removal of weeds or invasive species, pruning, mowing, raking, and other activities that are done at regular intervals within the course of a year.

SITE – Shall include the following meanings:

- a. Generally, a site is a contiguous area of land, including a lot or lots or a portion thereof, upon which a project is developed or proposed for development.
- b. For the purpose of erosion control, a site shall include the lot (locus) which includes clearings, structures and utilities, temporary earthen disturbances, excavations, and trenching locations, at a minimum.

E. Applicability. Where a project is subject to Site Plan Approval, Definitive Subdivision or Special Permit Approval from the Planning Board, the Regulations adopted by the Planning Board shall apply and a review shall be completed as part of the Planning Board process provided that the Planning Board also finds that the activity is in compliance with any additional performance standards contained in the Regulations promulgated to implement this Bylaw. When a project is within the Bare Hill Pond watershed the Bare Hill Pond Watershed Management Committee shall be requested to provide comments to the Planning Board prior to approval.

- (1) For projects not subject to Site Plan Approval, Definitive Subdivision, or Special Permit Approval from the Planning Board, this Bylaw shall be applicable to all new development and redevelopment, land-disturbance, and any other activity that may result in an increased amount of stormwater runoff or pollutants, or changes to drainage characteristics causing an increase in runoff, flowing from a parcel of land, unless exempt pursuant to Section C of this Bylaw. This Bylaw shall apply to land or parcels of land that are held in common ownership (including ownership by related or jointly-controlled persons or entities) as of the effective date of this Bylaw, if the total land-disturbing activities on said land or parcels, considered as a whole, would presently or ultimately exceed the minimum thresholds in Section E(2), and are not exempted by Section B. A development shall not be segmented or phased in a manner to avoid compliance with this Bylaw.
- (2) No Permit Required – For activities including, but not necessarily limited to, those listed below, no permit shall be required provided that erosion control measures are used and the activity will not result in an increased amount of soil, stormwater runoff, and/or pollutants flowing from a parcel of land and entering a traveled way or adjacent properties.
 - (a) Land Disturbance not to exceed 5,000 square feet in area other than work described in Sections E(2)(d) and E(3)(a).
 - (b) The creation of new impervious area, or expansion of existing impervious area, not to exceed 750 square feet.
 - (c) Repair, replacement, or reconstruction of an existing driveway in the same location.
 - (d) Restoration of existing lawn areas provided that any imported material is spread at a thickness no greater than four inches and the total imported material does not exceed 250 cubic yards.
 - (e) The addition or on-site redistribution of up to 250 cubic yards of material.

- (f) Demolition of a structure provided that any land-disturbance, including the area of the structure, does not exceed 5,000 square feet.
 - (g) Routine maintenance and improvement of institutional open space, and recreational areas, provided that an annual letter or plan is filed with and approved by the Planning Board describing the work to be done.
- (3) Erosion Control Permit Thresholds - A Erosion Control Permit shall be required for any of the following, except for an activity exempt per Section B:
- (a) Minor Permit
 - [1] The creation of new impervious area, or expansion of existing impervious area, greater than 750 square feet and not exceeding 2,500 square feet.
 - [2] Repair, replacement, expansion of septic systems provided the work does not exceed the thresholds in Section E(3)(b)[4].
 - [3] The addition or on-site redistribution of more than 250 cubic yards, but not exceeding 500 cubic yards, of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
 - (b) Major Permit
 - [1] Construction of any new dwelling or new dwelling replacing an existing dwelling or accessory dwelling;
 - [2] Any land-disturbance exceeding an area of 5,000 square feet, or more than 20% of a parcel or lot, whichever is less, other than activities described in Section E(2).
 - [3] Creation of new impervious surface area greater than 2,500 square feet.
 - [4] The addition or on-site redistribution of more than 500 cubic yards of earth materials including, but not limited to, sand, gravel, stone, soil, loam, clay, sod, fill and mineral products.
 - [5] Reconstruction of public or private way.
 - [6] Reconstruction or replacement of existing non-residential parking lots, including associated driveways, greater than 2,500 square feet.

F. Appeal of Permit. Any person aggrieved by the decision of the Planning Board, whether or not previously a party to the preceding, may appeal the decision in accordance with Massachusetts General Laws Chapter 40A, Section 17.

G. Enforcement.

- (1) This Section shall be administered by the Planning Board and enforced by the Town's Zoning Enforcement Officer who shall take appropriate action in the name of the Town of Harvard to prevent, correct, restrain, or abate violations of thereof. Each day that any violation continues is a separate offense. Violators shall be subject to a fine not exceeding \$300 for each offense; and
- (2) The Town's Zoning Enforcement Officer may post the site with a Stop Work Order directing that all site disturbances in violation of this Section cease immediately. The issuance of a Stop Work Order may include remediation or other requirements which must be met before construction activities may resume. No person shall

continue working in an area covered by a Stop Work Order, except work required correcting an imminent safety hazard as directed by the Town.

(Inserted by Planning Board)

ARTICLE 9: AMEND SCENIC ROADS BYLAW CHAPTER 90

To see if the Town will vote to amend the Scenic Roads Bylaw, Chapter 90, by making the following revisions, thereto, or pass any votes or votes in relation thereto:

[Key to revisions: underlining = additions; ~~strikethrough~~ = deletions]

§ 90-1 Purpose and designation.

In order to preserve the qualities and character of the Town ways, the roads, streets and ways set forth in § 90-3 below are designated as scenic roads under the provisions of Massachusetts General Laws Chapter 40, Section 15C.

- A. The Town of Harvard adopts the provisions of Massachusetts General Laws Chapter 40, Section 15C, as amended, which provides, in part, that any repair, maintenance, reconstruction or paving work done with respect to any road, as defined in § 90-2 of this chapter, designated as a scenic road in § 90-3 of this chapter, shall not involve or include the cutting or removal of trees, or the tearing down, destruction, or alteration of stone walls or portions of stone walls within the right-of-way of a designated scenic road, except with prior written consent of the Planning Board after a public hearing.
- B. A scenic road consent is not required for the temporary removal and replacement of a stone wall at the same location with the same materials, but only if the Harvard Department of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced.
- C. The Planning Board shall consider, among other things, the public safety, scenic views, preservation of historic and regional characteristics, and preservation and enhancement of natural and aesthetic qualities of the environment.
- D. After public notice and public hearing, the Planning Board may promulgate rules to accomplish the purposes of this bylaw, effective when voted and filed with the Town Clerk. Failure by the Planning Board to promulgate such rules or a legal declaration of their invalidity by a court of law shall not operate to suspend or invalidate the effect of this bylaw.

§ 90-2 Definitions.

The following definitions shall apply in the interpretation of this bylaw.

CUTTING OR REMOVAL OF TREES

The removal of one or more trees, trimming of major branches, or cutting of roots sufficient in the Tree Warden's written opinion to cause eventual destruction of a tree. However, such cutting or removal shall not be construed to include clearing of nuisance growth, routine or emergency tree maintenance which removes only permanently diseased or damaged limbs, trunks or roots and dead whole trees, or thinning out of overcrowded trees as determined by the Tree Warden, but shall include such cutting or removal done in contemplation of, or following the repair, maintenance, reconstruction or paving work for a road.

ENFORCING OFFICIALS

The following Town officials are deemed to be Enforcing Officials for the purposes of this Article and Bylaw: The Planning Board, Select Board, Chief of Police or any police officer of the Town, Tree Warden, and Building Commissioner.

REPAIR, MAINTENANCE OR RECONSTRUCTION

Any such work done within the right-of-way by any person or agency, public or private, including, but not necessarily limited to, any work on any portion of any right-of-way which was not physically commenced at the time the road was designated as a scenic road; and the construction of any new driveway or private way or the alteration of any existing driveway or private way in so far as such alteration takes place within the right-of-way when such work involves the cutting down of trees or the destruction of stone walls.

RIGHT-OF-WAY

The area on and within the boundaries of the public way. If the boundaries are unknown, any affected trees or stone walls shall be presumed to be within the public right-of-way until shown to be otherwise.

ROAD

The entire right-of-way of a way used for vehicular travel and appurtenant structures and facilities including, but not limited to bridge structures, drainage systems, retaining walls, traffic control devices, sidewalks, pedestrian facilities, and the air space above them, but not intersecting streets or driveways.

TEARING DOWN OR DESTRUCTION OF STONE WALLS

The defacement, removal, physical covering (other than naturally occurring plant covering) or rearrangement of a stone wall as defined herein. Temporary removal and replacement at the same location with the same materials is permitted without Planning Board consent, but only if the Harvard Department of Public Works is notified before the work begins so that it can confirm that the wall is properly replaced.

TEMPORARY REMOVAL OF STONE WALLS

The temporary removal and replacement at the same location with the same materials.

TREE

For the purposes of this Scenic Road Bylaw only, a living tree whose trunk has a diameter of 4.54 inches or more as measured one foot from the ground. All trees so defined within the right-of-way of a designated scenic road or on the boundaries thereof shall be subject to this bylaw. If, for whatever reason, it is uncertain as to whether a tree is within the right-of-way of a designated scenic road, it shall be presumed to be subject to the provisions of this bylaw and the provisions of Massachusetts General Laws Chapter 40, Section 15C until the contrary is shown. Nothing in this definition shall be construed to permit a person, other than the Tree Warden or his deputy, to trim, cut down or remove a public shade tree.

§ 90-3 Designated scenic roads.

Armstrong Road

Bemis Road (Craggs Road)

Blanchard Road

Bolton Road

Brown Road
Cameron Road
Cleaves Hill Road
Cross Road
Cruft Lane
East Bare Hill Road
Eldridge Road
Elm Street
Fairbanks Street
Finn Road
Green Hill Road
Harvard Depot Road
Lancaster County Road
Littleton County Road
Littleton Road
Madigan Lane
Mill Road
Murray Lane
Oak Hill Road
Old Boston Road
Old Littleton Road
Old Mill Road
Old Post Road (Lovers Lane)
Old Schoolhouse Road
Old Shirley Road
Pattee Road
Pinnacle Road
Pond Road
Poor Farm Road
Prospect Hill Road
St. John Road
Scott Road
Shaker Road
Sherry Road
Slough Road
South Shaker Road
Still River Depot Road
Stow Road
Tahanto Trail

Under Pin Hill Road
Warren Avenue
West Bare Hill Road
Westcott Road
Whitney Lane
Whitney Road
Woodchuck Hill Road

§ 90-4. Design Standards.

A scenic road application shall conform to the following design standards:

A. Driveways

- (1) Driveway standards shall be consistent with the Code of the Town of Harvard, Chapter 125-31 Driveways.
- (2) Driveways shall be located in a manner that minimizes the required cut and fill, so as to preserve the existing topography to the greatest extent possible.
- (3) No tree with a trunk diameter exceeding four (4) inches or more, as measured one foot from the ground, shall be cut for a driveway unless said driveway cannot be safely located otherwise.

B. Stone walls

- (1) Removed portions of a stone wall for any purpose shall be used to repair other sections of the wall along the right -of-way.
- (2) No stone wall shall be cut without construction of an appropriate terminus. Appropriate end points consist of: stone wall with tapered ends turning back onto the lot along the driveway, but shall remain in the right-of-way: stone piers: or granite posts.
- (3) Reconstructed portions of stone walls shall use materials that match the existing wall.

C. Tree Replacement

- (1) For each tree to be removed that exceeds four (4) inches in diameter measured from one foot above ground level, a native, nursery-quality tree(s) shall be planted, or an equivalent payment into the town-wide Tree Replacement Fund shall be made. Species type and location, with the advice of the Tree Warden, shall be suitable to the Planning Board,

(2) The cost of the tree(s), amended soil, if applicable, and the labor for planting the tree(s) is to be paid by the applicant.

(3) Payment covering the cost of said tree(s), soil amending, if applicable, and planting labor shall be made to the Tree Reserve Fund for the period of two years. If the tree(s) survive two years, the funds shall be returned to the applicant.

(4) This section shall not apply to projects undertaken by the Town of Harvard

D. The Planning Board may waive the design standards, as set forth under this Section 90-4, if it finds that sight lines create a public safety risk.

§ 90-45 Applications and fees.

- A. Written application shall be filed with the Planning Board to perform activities affecting areas protected by this bylaw. The application shall include such information and plans as are deemed necessary by the Planning Board to describe proposed activities and their effects on the areas. No activities shall commence without receiving and complying with written consent issued pursuant to this bylaw.
- B. At the time of an application, the applicant shall pay a filing fee as specified on the Scenic Road Consent Application.
- C. The Planning Board may waive the filing fee and costs and expenses for an application filed by a government agency, the Town, or a nongovernmental organization working the interest of the Town.

§ 90-5 Appeals.

~~A decision of the Planning Board shall be reviewable in the Superior Court in accordance with Massachusetts General Laws Chapter 249, Section 4.~~

§ 90-6 Enforcement; violations and penalties.

[Amended 10-22-2018 STM by Art. 1]

~~This bylaw shall be administered and enforced by the Planning Board, the Building Commissioner, the Tree Warden, the Director of the Department of Public Works or others designated by the Town Administrator. Enforcing officials may issue a citation for the violation of this bylaw and shall take appropriate action in the name of the Town of Harvard to prevent, correct, restrain or abate such violations. Violators shall be subject to a fine of \$100 per violation for the first offense, \$200 per violation for the second offense and \$300 per violation for the third and all subsequent offenses.~~

- A. Failure to file with the Planning Board for permission to cut or remove trees or for destruction of any portion of a stone wall within the right-of-way of the Scenic Road shall require an immediate filing as detailed above and shall be subject to restoration of the features. The restoration shall consist of replacing the stone wall as necessary and replacing the trees on a square-inch per square-inch basis at locations specified by the Tree Warden. A square-inch per

square-inch replacement means that the combined area of the replacement trees measured 1 foot above ground level must equal the total area of the original tree trunk as measured at the stump.

- B. Failure to comply with the duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures the Planning Board deems necessary, including but not limited to, enforcement of the funding and restoration detailed above.
- C. The Enforcing Official shall have the authority to enforce this bylaw, its regulations and permits issued thereunder by violation notices for noncriminal disposition under MGL Chapter 40, Section 21D, and civil and criminal court actions.
- D. Enforcing officials may issue a citation for the violation of this bylaw and shall take appropriate action in the name of the Town of Harvard to prevent, correct, restrain or abate such violations. Violators shall be subject to a fine of \$300 as set forth under the Scenic Road Act, MGL Ch.40, Section 15C. Each day that a violation continues shall constitute a separate offense, until an application is made to the Planning Board. In addition, the Planning Board and Building Inspector may withhold or revoke any current or pending permit on the property associated with said violation.
- E. Criminal Complaint. Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the district court. Except as otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation, or offense, brought in this manner, shall be \$300.

§ 90-7 Invalidity.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or decision, which previously has been issued.

§ 90-8 Appeals.

A decision of the Planning Board shall be reviewable in the Superior Court in accordance with Massachusetts General Laws Chapter 249, Section 4.

(Inserted by Planning Board)

ARTICLE 10: Adopt MGL Chapter 90, Section 17C – 25MPH Speed Limit in Thickly Settled Areas or Business Districts

To see if the Town will vote to accept the provisions of Chapter 90, Section 17C of the Massachusetts General Laws, which will allow the Select Board to set the speed limit in thickly settled and business district areas of the Town at 25 miles per hour, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

ARTICLE 11: Home Rule Petition - Speed Limits

To see if the Town will vote to authorize the Select Board to petition the General Court of the Commonwealth of Massachusetts to adopt a Home Rule petition special act to authorize the Select Board to set the following speed limits on the following roads in the Town of Harvard, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

Ann Lees Road – 30 MPH

Ayer Road from PD (Police Department) to Route 2 – 35 MPH (currently 40 MPH)

Ayer Road from Route 2 to Ayer town line – 35 MPH Currently 40MPH

Blanchard Road – 25 MPH

Bolton Road- 30 MPH from the Bolton Line to Massachusetts Avenue

Brown Road – 30 MPH

Cleaves Hill Road – 30 MPH

Depot Road – 30 MPH

East Bare Hill Road – 30 MPH

Lancaster County Road – 30 MPH

Littleton County Road – 30 mph

Littleton Road – 30 from center of town to Whitney Road (advisory 25 remain) and 35 MPH to Littleton town line

Madigan Lane – 25 MPH

Mill Street – 25 MPH

Myrick Lane – 30 MPH

Oak Hill Road – 30 MPH

Old Littleton Road – 30MPH with some sections at 20 and 25 MPH

Old Mill Road – 30 MPH

Old Schoolhouse Road – 20 MPH

Old Shirley Road – 30 MPH with the sharp curve at 20MPH

Pinnacle Road – 30 MPH

Poor Farm Road – 30 MPH with 20 MPH at the school zone

Prospect Hill Road – 35 MPH with the sharp curve at 20MPH

Scott Road – 30 MPH

Shaker Road – 30 MPH

Slough Road – 30 MP

South Shaker Road – 30 MPH

Still River Road – Bolton town line to West Bare Hill Road– 35 MPH

Still River Road – Prospect Hill Road to Willow Road – 35 MPH

Still River Road – West Bare Hill Road to Prospect Hill Road – 30 MPH, with 20 MPH zone at

Immaculate Heart of Mary School; St. Benedict's Abbey, & St. Benedict's Center

Still River Depot Road – 20 MPH

Tahanto Trail – 30 MPH

Warren Avenue – 25 MPH

West Bare Hill Road – 30 MPH with the sharp curves at 20MPH

Westcott Road – 30 MPH

Woodchuck Hill Road – 30 MPH

ARTICLE 12: Home Rule Legislation for an Additional Off Premises All Alcohol License

To see if the Town will vote to authorize the Select Board to petition the General Court of the Commonwealth of Massachusetts to adopt a Home Rule Petition special act to authorize the Select Board to issue one additional off-premises all alcohol license for the Town of Harvard, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

ARTICLE 13: Amend Charter

To see if the Town will vote to propose the following amendment to Section 3-3 of the Town Charter as follows:

[proposed added text is underlined]

“Section 3-3: School Committee (a) The Harvard School Committee provides public education, pre-K through high school, and related services to the Town of Harvard. The School Committee shall consist of five members elected for terms of three years each, the terms being arranged so that the terms of office of as nearly an equal number of members as possible expire each year. The term of office for the five members will begin on the first business day in July following their election.”,

or pass any vote or votes in relation thereto.

(Inserted by School Committee)

ARTICLE 14: Town Commons

To see if the Town will vote to transfer the care, custody management and control of Town Common, shown on Assessor’s Map 17D as Lot 5 and containing 4.9 acres, more or less, and Lot 48, containing 0.14 of an acre, more or less, from the Park and Recreation Commission to the Select Board, with no change of use in said land, , or pass any vote or votes in relation thereto.

(Inserted by Park and Recreation)

The Town’s Assessors’ records indicate that the 0.14 lot at the Fairbanks Street – Oak Hill Road Intersection is under the Park and Rec. Comm. However, I could find no deed reference to do the needed research to verify this. It must be verified before 10/16/21 as it may affect the motion. Please see if the Town Clerk has any information on this lot.

ARTICLE 15: Town Commons Alternate

To see if the Town will vote to place the Town Commons, South of the Unitarian Church (Lot 4), found on Assessor’s Map 17D Lot 5 (4.4. acres) and lot 48 (0.14 acres), under the authority and jurisdiction of the Parks & Recreation Commission, ownership remaining with the citizens of the Town, or pass any vote or votes in relation thereto.

(Inserted by Park and Recreation)

Town Counsel Comment: This article, as drafted in the document that you sent me today, is based on the assumption that the Town Common and the 0.14 acre lot at the Fairbanks Street – Oak Hill Road Intersection are not under the Park and Rec. Comm.'s jurisdiction. They are, with the caveat that jurisdiction of 0.14 acre lot needs to be verified. Thus, the article is not needed.

ARTICLE 16: Pay A Prior Year Bill

To see if the Town will vote to transfer a sum of money from the General Stabilization Fund to pay a prior fiscal year bill, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

ARTICLE 17: Ambulance Retained Earnings

To see if the Town will vote to transfer a sum of money from the Fiscal Year 2021 Ambulance Retained Earnings, said sum to be applied to the Ambulance Enterprise Fund to fund Fiscal Year 2022 appropriations, or pass any vote or votes in relation thereto.

(Inserted by Select Board)

ARTICLE 18: Climate Resolution

To see if the Town will vote to recognize the local impacts of climate change and chooses to address these impacts by adopting the following resolution:

BACKGROUND AND PURPOSE

The Commonwealth of Massachusetts has a legally binding statewide requirement of an 80% reduction in greenhouse gas emissions from 1990 levels by 2050;

The local impacts of climate change are presently evident and are expected to increase in intensity from more severe storm events, increasing heat and drought, increasing pestilence and disease, increasing impacts to water and soil resources, and increasing impacts to native natural and agricultural flora and fauna, resulting in damage to public and private lands and ecosystems in Harvard, and harming the health and welfare of its residents;

Harvard is dependent on greenhouse gas emitting fossil fuels for mobility, heating and cooling, and other basic needs but the availability of energy from renewable sources is growing and becoming more cost effective;

Harvard recognizes that actions taken to address climate change will also benefit our community's vibrancy well into the future.

NOW BE IT RESOLVED,

1 - Harvard affirms its support for the greenhouse gas reduction goals established by the Commonwealth of Massachusetts and for any subsequently adopted modifications of those goals, and affirms its willingness to change its practices, policies, and procedures in support of achieving the goals established by the Commonwealth in order to mitigate the impacts of climate change;

2 - Harvard commits to evaluating and mitigating the potential negative impacts of climate change associated with all purchases, public projects, planning processes, and policies;

3 - Harvard commits to developing and requiring an environmental assessment process to review all purchases, public projects, planning processes and policies and to make this information readily available to town residents specifically on warrants requiring citizen approval; and

4 - Harvard commits to addressing climate resiliency and adaptation by coordinating the work of Town boards, committees, commissions, and other entities to plan together how to respond to the threats climate change may have on the built environment, natural resources, and the health of its residents.

To implement the above, the Harvard Select Board will establish the means by which this resolution will be achieved and will provide an update to the town on its progress towards establishing the infrastructure in which to accomplish this resolution within one year of its passage. Thereafter reports will be made annually at Town Meeting on the progress the Town has made in regards to this resolution, or pass any vote or votes in relation thereto.

(Inserted by)

ARTICLE 19: Citizens Petition

To see if the Town will vote to a) direct the Select Board to sell the parcel of land with the building thereon known, and numbered as 39 Massachusetts Avenue, Harvard, Massachusetts and described in the deed dated June 2, 1982 and recorded with the Worcester District Registry of Deeds in Book 7951, Page 344, as a private residence; and b0 direct the Harvard Historical Commission to initiate the process of including the property in and Historic District, or take any vote or votes thereto.

(Inserted by Citizens Petition)

And you are directed to serve this Warrant by posting two attested copies thereof, one at the Town Hall and one on the Town of Harvard website, as directed by the Town Charter, seven days at least before the time of holding said meeting. Hereof fail not, and make due return of this Warrant with your doings thereon to the Town Clerk.

Given under our hands this 5th day of October, Two Thousand and Twenty-One.

Harvard Board of Selectmen:

Stuart Sklar, Chairman

Richard Maiore

Erin McBee

Kara McGuire Minar

Alice von Loesecke

I certify that I have posted two (2) attested copies of the warrant for the Special Town Election, one at the Town Hall and one on the Town Website, per the Town Charter, at least seven days before the time of holding said election.

_____, 2021.

Constable

(month and day)